

By Authority.



OFFICE OF THE BOARD OF HEALTH,
HONOLULU, July 30, 1890.
The Board of Health at a meeting held
this date appointed
G. W. C. JONES, Esq.,
Inspector of Milk for the City of Honolulu.
GEO. C. POTTER,
Secretary.

EVENTS OF TO-DAY.

LEGISLATIVE ASSEMBLY—At 10 A. M.
HONOLULU ARMY—Regular monthly meet-
ing at 7:30 P. M.
S. S. AUSTRALIA—Departure for San Fran-
cisco at noon.
ST. ANDREW'S CATHEDRAL—Service at 7
P. M.
BAND CONCERT—By the Royal Hawaiian
Band, at Queen Emma Hall, at 7:30
P. M.

THE DAILY

Pacific Commercial Advertiser.

Be just and fear not:
Let all the ends thou aim'st at be
Thy Country's, thy God's, and Truth's.

FRIDAY, AUGUST 1, 1890.

MR. MERRITT'S essay on the im-
portance of teaching political edu-
cation in our schools is concluded
in this issue, and will be found a
most timely contribution to educa-
tional literature, discussing, as it
does, a subject which is too much
neglected here in and in other
countries.

On Wednesday last the track of
the Ewa railway was completed to
the harbor front, so that the first
train reached the wharf, and sev-
eral car loads of bananas were
placed in scows and put on board
the Australia. Sixteen car loads of
bananas have been received from
Ewa the past few days, most of
which, however, were carted
around to the steamer wharf.
Hereafter any freight that comes
over the railroad for export, or
whether it be rice, bananas, sugar
or other produce can be hauled di-
rectly to this wharf and there put
on board the vessels it may be con-
signed to. And so also, lumber and
other importations can be taken
from the ships' tackles alongside
this wharf, put on the cars and
taken to destination along the road,
with greatly decreased cost. Very
few sea ports can show such accom-
modations for transporting freight
from the districts where produced
and turning it over to the ships
from the cars, or vice versa, with
but one handling as this now has.
The traffic of this new road is in-
creasing rapidly, and from this time
on will more than cover all current
expenses. A great deal of heavy
freight is received daily at the
depot for various points on the
road, though the most of it is for
the new Ewa Sugar Plantation,
which is being pushed ahead with
great vigor by its managers.

SUPREME COURT.—JULY TERM.

MR. JUSTICE DOLE PRESIDING.

THURSDAY, July 31.

The King vs. Ah Lo, Unlawful Pos-
session of opium. On motion of Mr.
Davidson for mitigation the Court
sentenced defendant to be impris-
oned at hard labor for three months,
and to pay a fine of \$50.

The King vs. P. O'Sullivan. Vi-
olating Section 8, Chapter 7, Laws
1886. Prosecution enters a nolle
prosequi.

The King vs. Man Lee, Accessory
to Murder. Prosecution enters a
nolle prosequi.

IN BANCO.

The King vs. T. W. Hobron and
Jonathan Shaw. The same vs. the
same. Before Judd, C. J., McCully,
Bickerton and Dole J. J. The elec-
tion law of 1888 is construed to mean
that for the purpose of voting for
nobles the three months required
previous residence may be had in
different precincts or local districts
of the island district for which the
nobles are elected, but the voter must
at the time of the election be a resi-
dent of the precinct in which he is
registered for voting.

In the second case the court con-
siders whether upon an agreed state-
ment of facts the voter has retained
his residence in the precinct of his
registration.

The Court in the first case con-
siders that in refusing the vote of
Mr. Gedge the defendants followed
the law, and we acquit them of the
charge.

On the testimony we hold that
Mr. Lucas had given up residence
in the precinct where his vote was
refused, and acquit the defendants
upon this charge also.

Mr. Wilde, an Englishman, who
has resided in the islands for twenty
years, died Wednesday at the
Queen's Hospital. He was buried
by the Rev. Alex. Mackintosh.

Supreme Court, Hawaiian Islands.
In Banco.

SPECIAL TERM OF 17TH JUNE, 1890.

IN THE MATTER OF THE ESTATE OF
KEALIAHONUI, DECEASED.

Appeal from Decision of BICKERTON,
J., Sustaining Plea in Bar.

BEFORE McCULLY, BICKERTON AND
DOLE, J. J.; JUDD, C. J., not sitting,
having acted as counsel in simi-
lar proceedings against the es-
tate.

The decision of Bickerton, J., ap-
pealed from is as follows:
"The petition is as follows:
"The amended petition of Junius
Kahe, one of the heirs of Kealiahonui,
deceased, shows unto this Court:

"1. That the said Kealiahonui
died on or about the 23d day of
June, A. D. 1849, being at the time
of his death a resident of Honolulu,
and leaving estate within the juris-
diction of this Court.

"2. That on January 25th, A. D. 1855,
the petition of one, L. Haale-
lea, was filed in this Court, repre-
senting that Kealiahonui aforesaid
had died as aforesaid, that previous
to his decease he had devised his
estate to Kekauonohi by a last will
and testament; that said Kekauo-
nohi had since died after devising
his estate to the said petitioner;
that the petitioner was beneficially
interested in having said will of
Kealiahonui proved and recorded,
and prayed time and place for pro-
bate of said will, which he was ready
to produce and verify as the law
might require and the Court direct.

"3. That thereafter, to wit, on
February 16, A. D. 1855, before the
Hon. L. Andrews and the Hon. G. M.
Robertson, Associate Justices of this
Court, appeared the said petitioner
L. Haalelea, and presented and filed
in the Court a paper writing as and
for the last will and testament of the
said Kealiahonui, deceased, for pro-
bate.

"4. That after certain proceed-
ings had in the Court, an order was
made and entered on said February
16, A. D. 1855, admitting said paper
writing to probate as the last will
and testament of said deceased Kea-
liahonui, and a certificate of the
proof thereof as such endorsed there-
upon, and the said L. Haalelea pro-
ceeded to administer the estate of
the said deceased thereunder.

"5. That said paper-writing so
admitted to probate as your peti-
tioner is informed and believes and
charges upon information and be-
lief, was never made by the said
Kealiahonui, deceased, was not
made at his request, was never dic-
tated by him, was never read to him,
that he never put his mark thereon
or his hand on that of another who
wrote his name, that said paper-
writing was not made at Puloa, that
said deceased did not hear anyone
ask Abigail Maheha to sign the
paper, and that deceased did not ask
Kahalewai to sign the same.

"6. That said paper-writing was
not signed by the said deceased or
by some person in his presence and
by his express direction, and was not
attested and subscribed in the pres-
ence of the deceased by two or more
witnesses.

"7. That the said paper-writing
as your petitioner is informed and
believes and charges upon informa-
tion and belief is not the last will
and testament of the said deceased
Kealiahonui, but that said paper-
writing is a forged writing paper
and was falsely and fraudulently
made and forged in Honolulu a long
time after the death of the said
deceased.

"8. That there is after and newly
discovered evidence, to wit, since
January A. D. 1889, that said paper-
writing was not signed by the de-
ceased or by some person in his
presence and by his express direc-
tion, and was not attested and sub-
scribed in the presence of the de-
ceased by the alleged witnesses.

"9. That said paper-writing was
admitted to probate upon insufficient
evidence and proof and contrary to
law and the rules of evidence.

"10. That due search and in-
quiry have been made to ascertain if
deceased left any will and testament,
but none have been found, and
according to the best knowledge and
belief of your petitioner the said de-
ceased died intestate.

"11. That the estate of deceased
was of great value, to wit, more than
five hundred dollars and consisted
almost entirely of real estate within
this Kingdom.

"12. That the deceased Kealia-
honui died without issue, leaving his
widow Kekauonohi, who afterwards
married L. Haalelea aforesaid and
died without issue on or about June
2, 1851.

"13. That the deceased left two
half-sisters, Kinohi, whose father is
unknown to your petitioner, whose
mother was Kapuamohu, the first
wife had by Kaunalihi, King of
Kauai, and father of the deceased
and Nahinu a daughter of the said
Kaunalihi and Makua his second
wife. That the said Kinohi is since
deceased, leaving issue Her Majesty
Queen Kapiolani, Her Royal High-
ness Virginia Kapooloku Poomai-
kealani and Her Royal Highness Kea-
kaulike who is since deceased, leaving
issue His Highness David Kawa-
nanakoa and His Highness
Jonah Kalia Kaliaanaloa. That
Nahinu is since deceased leaving
lawful issue by her marriage
with Oliver Chapin Kaliaipihana,
who died without issue on or about
March 30, A. D. 1867, and Kaeo, who
died before said Kaliaipihana with-
out issue, leaving his widow Julia
Kamaemalia who died in 1867, and
Kamehaokalani.

"14. That said Kamehaokalani
was married to your petitioner in
1873; that she was at her said marriage

nineteen years of age; that they had
issue three children who all died in
infancy; that the said Kamehaoka-
lani died on or about January 11,
A. D. 1882, leaving heirs her husband,
your petitioner, and cousins, Her
Majesty Queen Kapiolani, Her High-
ness Kapooloku and Her Highness
Kekaulike, since deceased as afore-
said.

"15. That by her last will and
testament duly probated by the order
of this Court, issued and made De-
cember 27th, A. D. 1882, your peti-
tioner was appointed executor of the
estate of the said Kamehaokalani,
and letters testamentary issued to
him as such, and he still is such ex-
ecutor.

"16. That in A. D. 1855, as your
petitioner is informed and believes,
and so alleges upon information and
belief, at the time of the probate of
the said paper-writing purporting to
be the last will and testament of the
said deceased Kealiahonui, the said
Kamehaokalani was a minor under
the age of eighteen years, to wit, one
year of age, living on the island of
Kauai; her father was dead, having
died in 1854; her mother infirm and
on her death bed; that no one ap-
peared to represent her, and the
Court did not appoint any person to
represent her at the said probate of
the said pretended will.

"Wherefore your petitioner
prays that the order admitting the
paper-writing purporting to be the
last will and testament of the said
Kealiahonui, deceased, made on the
16th day of February, A. D. 1855, be
revoked, and that the letters testa-
mentary issued to the said L. Haale-
lea be cancelled, and that your peti-
tioner, Junius Kahe, may be ap-
pointed administrator of the said
estate, and that due notice be given
to all persons interested to appear at
such time and place as this Court
may direct, and that the Court make
a time and place and issue process
summoning the said Her Majesty
Queen Kapiolani, Her Royal High-
ness Virginia Kapooloku Poomai-
kealani and His Highness David Kawa-
nanakoa and His Highness Jonah
Kalia Kaliaanaloa to appear and
show cause, if any they have, why
the prayer of this petition should not
be granted.

"And your petitioner will ever
pray, etc."

"Mr. F. M. Hatch appears on be-
half of Andria A. Haalelea and files
a plea in bar as follows:

"PLEA IN BAR.

"And now comes Andria A. Haale-
lea and shows the court that she is
the widow of and devisee under the
will of L. Haalelea; that her said
husband was devisee under the will
of Kekauonohi, who was the sole de-
visee of said Kealiahonui, and that
this respondent is interested in the
estate which was devised by the will
of said Kealiahonui.

"And this respondent further
shows that a petition was filed in
this Court on the 2d of July, A. D.
1886 by Kapiolani (w) and D. Kala-
kama, her husband, Kapooloku (w)
and Kanawai, her husband, Kinohi
(w) and Pihiko, her husband, Kelaui-
pihana (w) and F. W. Malaibi, her
husband, and Kamehaokalani, a
minor, by F. W. Malaibi, her next
friend, under whom said Kahe claims,
praying for the revocation of the pro-
bate of the will of said Kealiahonui
upon the same grounds as are set
forth in the petition of said Kahe,
on which petition judgment was
given dismissing the same on the
30th day of November, A. D. 1886.

"Wherefore the respondent prays
judgment if she should be held to
make any further answer herein and
that said petition may be dismissed
with costs."

"Mr. J. M. Davidson appears for
Her Majesty Queen Kapiolani.

"Upon an examination of the re-
cord of the case pleaded in bar, I
find that an appeal was taken from
the decision of Mr. Justice Robert-
son, but was dismissed by the Court
in banco, as the bond was not filed in
time. A writ of error was then ap-
plied for and issued, and after hear-
ing, the Court was of opinion that
this writ of error is not maintain-
able, and that plaintiff in error take
nothing by his writ." It also appears
that Kamehaokalani (at that time 16
years of age), through whom this
petitioner claims, was a party to all
of these proceedings and appeared
by F. W. Malaibi, her next friend;
but petitioner's counsel contends
that the infant, Kamehaokalani, was
not represented in the former case,
as the record does not show that
Malaibi appeared by leave of the
Court, or was appointed as next
friend, as required by the rule of
Court, which reads as follows: "Janu-
ary Term, 1861. It is hereby or-
dered that in every suit hereafter
to be instituted in this Court on behalf
of a minor, by his *prochein ami* or
next friend, it shall be incumbent on
the party desirous of suing in that
capacity, to obtain the sanction of
the Court, or of one of the Justices
thereof before the issuing of pro-
cess."

"There is no question that at the
time of the suit this rule was in
force and would have to be complied
with. Yet I could not hold that it
must be done in writing, although at
the present time the practice is to
have a Justice of the Court endorse
on the petition the appointment of a
guardian *ad litem* or a *prochein ami*. I
find endorsed on the petition an or-
der for process to issue, naming the
time and place of hearing, and also
that public notice be given for three
weeks in the HAWAIIAN GAZETTE to
all parties interested; this order is
signed by Mr. Justice Robertson;
the petition setting out the names of
the parties plaintiff, including Kame-
haokalani by Malaibi, her next
friend, was before the Justice at the
time; and can it not be fairly said,
that in making this order the Jus-
tice gave his sanction to Malaibi ap-
pearing as next friend of the minor
Kamehaokalani. The rule does not
require the appointment of a *pro-
chein ami* or next friend, it only re-
quires the sanction of the Court, or a
Justice thereof, for a person to sue

in that capacity. It seems to me by
allowing process to issue on that
petition, the Justice gave his sanc-
tion, and that the minor Kamehaoka-
lani was properly represented in
Court. The legal presumption (cer-
tainly 'at this distance of time) is,
that all things in a judicial proceed-
ing which ought to be done, were
done. I find in the record of the
former case, that Mr. C. C. Harris,
one of the respondents, referring to
the minor says: "Kamehaokalani
is still a minor and here
by next friend." But counsel
for Mrs. Haalelea, the
respondent in this case contends that
even the utter failure to procure the
appointment of a next friend is only
an irregularity to be taken advan-
tage of by motion at the time, and
does not affect the jurisdiction of the
Court.

"The Court entertained jurisdic-
tion in the former case.
The general rule is that the
omission to procure the appointment
of a guardian or *prochein ami* for the
infant plaintiff is no ground for non-
suit and can only be taken advantage
of as an irregularity by motion.
"It is not indispensable in all
cases that the proceedings show a
formal order of Court admitting a
next friend or guardian to prosecute
the suit for an infant plaintiff; the
leave of the Court may be inferred
from its entertaining the action in
its early stages."

"Tyler on Infancy and Coverture,
2 Ed. pp. 196 and 197.

"There are a number of cases cited
in support of the above.
"An infant is bound by a decree
in a cause where he is plaintiff, and
after coming of age he is not allowed
by a new bill to dispute anything
that was done during his minority.
The rule of law is, that an infant is
as much bound by a judgment in his
own action as a person of full age.

"Gregory vs. Molesworth 3 Atk.
626.

"Chitty Equity Index, vol. 5, p.
4953.

It is contended that in any case
of improper action by a *prochein ami*,
where the infant might obtain relief,
the application to the Court must be
made by the infant promptly on be-
coming of age, otherwise the infant's
silence will amount to a confirmation.
This contention I understand to be
correct, persons cannot sleep on their
rights for all time. In this case the
infant who was sixteen years of age
at the time of the former case was
deceased, lived until 1862, consequently
she slept on her rights (if she had
any) for about sixteen years remain-
ing silent up to the time of her
death, and her husband, the peti-
tioner, has remained silent for about
eight years. In the case of Thurston
vs. Bishop VII Hawaiian Repts., the
Court held that it was the duty of a
minor to assert his claim within a
reasonable time after his coming to
full age.

"After careful examination of this
case, and of the authorities, I con-
sider that the petitioner is estopped
from what would amount to a re-
hearing of the original petition in
the case before Mr. Justice Robert-
son. Both that petition and the one
in this case allege the same grounds
why the probate should be revoked,
viz: That the will is a forgery.

"The plea in bar is sustained."

By the Court.

We support the decision appealed
from.

The rule which required "the
sanction of the Court, or of one of
the Justices thereof, before the is-
suing of process" upon the applica-
tion of one desirous of suing as a next
friend of a minor, was substantially
complied with. The Judge's order
for the issue of process endorsed upon
the petition, was a sufficient
"sanction" or authority for the per-
son desirous of acting as the next
friend of the minor, to act through-
out the proceedings in such capacity.

Moreover, the minor in question
was joined with several adult plain-
tiffs, and all were represented by
counsel, and the case heard upon its
merits. There is no claim that the
case was not fully and adequately
presented and tried.

June 25th, 1890.

C. L. Carter for petitioner, ap-
pellant.

F. M. Hatch for Mrs. Haalelea,
one of the respondents.

New Advertisements.

NOTICE.

HON. S. M. DAMON WILL ACT FOR
me under full power of attorney, dur-
ing my absence from the Kingdom.
W. F. ALLEN,
Honolulu, July 31, 1890. 27-134-1m

NOTICE.

MR. J. ALFRED MAGOON WILL
act for me under power of attorney
during my absence from the Kingdom.
N. B. COXNER,
Honolulu, July 30, 1890. 27-31*

NOTICE.

DURING MY ABSENCE FROM THE
Kingdom Mr. J. A. Magoon will act
for me under power of attorney.
N. B. EMERSON,
August 1, 1890. 27-1w

NOTICE.

SEALED BIDS WILL
be received by the
undersigned for the pur-
chase of the wrecks of the
U. S. S. "Trenton"
and "Vandalia" now on the reef in Apia
harbor, together with all anchors, chains
and appurtenances thereto belonging.
Bids will be received up to August 15,
1890.

The purchaser will be required to remove
the wrecks within three months from date
of purchase, and to furnish satisfactory
bonds for the fulfillment of contract.
The right is reserved to reject any or all
bids.

The terms are that half of purchase
money shall be paid at time of sale, the
balance within three months after first
payment.
W. BLACKLOCK,
Trustee.
Apia, Samoa, May 22, 1890. 148-304

New Advertisements.

ICE CREAM.

Having received our Containers and other
apparatus per last Australia, we are now
prepared to furnish.

Private Families, Parties, Balls, Picnics, etc.

— WITH —

ICE CREAM, ALL FLAVORS

In quantities to suit.

— We manufacture our Cream by a
new process and guarantee what we sell.

OUR TELEPHONE IS NO. 203!

LUDWIGSEN & -&- CRON,

HOTEL STREET, (Brewer's Block),

MANUFACTURERS OF

Fine French and Home-made Candies.

Ice Cream Drinks, Etc. 26-3t

FOR SALE!

Sugar Bags,

Rice Bags, Coal Bags,

Twine, Etc., Etc.

— BY —

H. W. SCHMIDT & SONS.

26-1w

Regan Vapor Engine

No Boiler, No Fire, No Steam,
No Coal, No Ashes,
No Engineer, No Explosion,
NO DANGER!

Started Instantly Without Even a
Match.

Always Ready to give out its Full Power.

Cost to Run:

About One Cent per Horse-power per
Hour.

The above Engine can be seen in
operation at any time at the Meat Market
of Jos. Tinker, Nuuanu street.

Information in regard to the cost,
running, etc. will be furnished on applica-
tion to

JOS. TINKER, Nuuanu St.,

23-1f Sole Agent Hawaiian Islands.

THE ARLINGTON,

Hotel St., - - Honolulu.

Large airy rooms with board. Also,
table board.

Hot and cold water baths,

Terms reasonable. 136-1f

PORTRAITS.

MRS. EVA M. JOHNSON,

Studio No. 27 Alakea Street,

(Formerly of New York),

Would inform the public of Honolulu that
she is prepared to fill orders in Pastel,
Water Colors, Oil, India Ink and
Crayon Portraits, Etc.

Samples can be seen at Studio and
at Hamilton House Parlors. 7-3m

\$75 Reward.

A REWARD OF \$75 DOLLARS WILL
be paid for information leading to
the arrest and conviction of the party or
parties who broke off the steel pickets
from the fence in front of the residence of
C. H. Atherton, Beretania street. Apply
at this office. 4-1f

LOST.

A LADY'S JACKET, YELLOWISH
brown. Finder will please deliver at
office of H. Mackfield & Co., who will pay
reward. 25-3t

SUPREME COURT OF THE HAWAII-
an Islands. At Chambers.
In the matter of the Bankruptcy of
ARTHUR JOHNSTONE of Honolulu,
Oahu. Before Mr. Justice McCULLY.

Order on Petition of Bankrupt for Dis-
charge from his debts.
Upon reading and filing the petition of
Arthur Johnstone of Honolulu, Oahu,
alleging that more than six months have
elapsed since he was adjudicated a Bank-
rupt and praying for a discharge from all
his debts:

It is ordered that THURSDAY, the 7th
day of August, A. D. 1890, at 10 A. M., of
that day at the Court Room in Aliolani
Hall, Honolulu, be and is hereby ap-
pointed the time and place for hearing of
said petition when and where all creditors
who have proved their claims against said
Bankrupt may appear and show cause if
any they have, why the prayer of said
Bankrupt should not be granted:

And it is further ordered that notice be
given by advertisement in the PACIFIC COM-
MERCIAL ADVERTISER published in said
Honolulu, for two weeks, of the time and
place of such hearing and that the Clerk
of the Supreme Court mail notices of the
time and place of such hearing to all credi-
tors of said Bankrupt who have proved
their debts.

By the Court. J. H. REIST,
Deputy Clerk.

Dated at Honolulu, July 21, 1890.
15-12t

Advertisements.

UNION IRON WORKS CO.,

J. N. S. WILLIAMS,
R. MORE,

MANAGER.
SUPERINTENDENT.

Engineers and Iron Founders

OFFICE AND WORKS, ESPLANADE, HONOLULU.

MANUFACTURERS OF

Sugar Machinery, Irrigating Machinery, Steam Engines,
Steam Boilers, Juice Tanks, Coolers, Molasses Tanks, Sugar Cars,
Cane Cars, Elevators, Conveyors, Furn